

Senate Study Bill 1005 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON SODDERS)

A BILL FOR

1 An Act relating to the reclassification of marijuana, including
2 tetrahydrocannabinols, and the possession of marijuana, and
3 providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.204, subsection 4, paragraphs m and
2 u, Code 2015, are amended by striking the paragraphs.

3 Sec. 2. Section 124.204, subsection 7, Code 2015, is amended
4 by striking the subsection.

5 Sec. 3. Section 124.206, subsection 7, Code 2015, is amended
6 to read as follows:

7 7. *Hallucinogenic substances.* Unless specifically excepted
8 or unless listed in another schedule, any material, compound,
9 mixture, or preparation which contains any quantity of the
10 following substances, or, for purposes of paragraphs "a" and
11 "b", which contains any of its salts, isomers, or salts of
12 isomers whenever the existence of such salts, isomers, or salts
13 of isomers is possible within the specific chemical designation
14 (for purposes of this paragraph only, the term "isomer" includes
15 the optical, positional, and geometric isomers):

16 a. ~~Marijuana when used for medicinal purposes pursuant to~~
17 ~~rules of the board.~~

18 b. Tetrahydrocannabinols, meaning tetrahydrocannabinols
19 naturally contained in a plant of the genus Cannabis (Cannabis
20 plant) as well as synthetic equivalents of the substances
21 contained in the Cannabis plant, or in the resinous extractives
22 of such plant, and synthetic substances, derivatives, and their
23 isomers with similar chemical structure and pharmacological
24 activity to those substances contained in the plant, such as
25 the following:

26 (1) 1 cis or trans tetrahydrocannabinol, and their optical
27 isomers.

28 (2) 6 cis or trans tetrahydrocannabinol, and their optical
29 isomers.

30 (3) 3,4 cis or trans tetrahydrocannabinol, and their
31 optical isomers. (Since nomenclature of these substances
32 is not internationally standardized, compounds of these
33 structures, regardless of numerical designation of atomic
34 positions covered.)

35 ~~b.~~ c. Nabilone [another name for

1 nabilone: (+-) -

2 trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-
3 hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one].

4 Sec. 4. Section 124.401, subsection 5, Code 2015, is amended
5 to read as follows:

6 5. It is unlawful for any person knowingly or intentionally
7 to possess a controlled substance unless such substance was
8 obtained directly from, or pursuant to, a valid prescription
9 or order of a practitioner while acting in the course of the
10 practitioner's professional practice, or except as otherwise
11 authorized by this chapter. Any Except as otherwise provided
12 in this subsection, any person who violates this subsection
13 is guilty of a serious misdemeanor for a first offense. A
14 person who commits a violation of this subsection and who has
15 previously been convicted of violating this chapter or chapter
16 124A, 124B, or 453B is guilty of an aggravated misdemeanor.
17 A person who commits a violation of this subsection and has
18 previously been convicted two or more times of violating this
19 chapter or chapter 124A, 124B, or 453B is guilty of a class "D"
20 felony.

21 a. (1) If Except as provided in subparagraph (4), if the
22 controlled substance is marijuana, the punishment shall be by
23 imprisonment in the county jail for not more than six months or
24 by a fine of not more than one thousand dollars, or by both such
25 fine and imprisonment for a first offense.

26 (2) If the controlled substance is marijuana and the person
27 has been previously convicted of a violation of this subsection
28 in which the controlled substance was marijuana, the punishment
29 shall be as provided in section 903.1, subsection 1, paragraph
30 "b".

31 (3) If the controlled substance is marijuana and the person
32 has been previously convicted two or more times of a violation
33 of this subsection in which the controlled substance was
34 marijuana, the person is guilty of an aggravated misdemeanor.

35 (4) If the controlled substance is five grams or less of

1 marijuana and subparagraphs (2) and (3) do not apply, the
2 person is guilty of a simple misdemeanor.

3 (5) A person may knowingly or intentionally recommend,
4 possess, use, dispense, deliver, transport, or administer
5 cannabidiol if the recommendation, possession, use, dispensing,
6 delivery, transporting, or administering is in accordance with
7 the provisions of chapter 124D. For purposes of this ~~paragraph~~
8 subparagraph, "*cannabidiol*" means the same as defined in section
9 124D.2.

10 b. All or any part of a sentence imposed pursuant to
11 this subsection may be suspended and the person placed upon
12 probation upon such terms and conditions as the court may
13 impose including the active participation by such person in a
14 drug treatment, rehabilitation or education program approved
15 by the court.

16 c. If a person commits a violation of this subsection, the
17 court shall order the person to serve a term of imprisonment of
18 not less than forty-eight hours. Any sentence imposed may be
19 suspended, and the court shall place the person on probation
20 upon such terms and conditions as the court may impose. If
21 the person is not sentenced to confinement under the custody
22 of the director of the department of corrections, the terms
23 and conditions of probation shall require submission to random
24 drug testing. If the person fails a drug test, the court may
25 transfer the person's placement to any appropriate placement
26 permissible under the court order.

27 d. If the controlled substance is amphetamine, its salts,
28 isomers, or salts of its isomers, or methamphetamine, its
29 salts, isomers, or salts of its isomers, the court shall order
30 the person to serve a term of imprisonment of not less than
31 forty-eight hours. Any sentence imposed may be suspended,
32 and the court shall place the person on probation upon such
33 terms and conditions as the court may impose. The court may
34 place the person on intensive probation. However, the terms
35 and conditions of probation shall require submission to random

1 drug testing. If the person fails a drug test, the court may
2 transfer the person's placement to any appropriate placement
3 permissible under the court order.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill relates to the reclassification of marijuana
8 including tetrahydrocannabinols and the possession of
9 marijuana.

10 The bill reclassifies marijuana, including
11 tetrahydrocannabinols, as a schedule II controlled substance
12 instead of a schedule I controlled substance and strikes
13 references to the authority of the board of pharmacy to adopt
14 rules for the use of marijuana or tetrahydrocannabinols for
15 medicinal purposes.

16 A schedule I controlled substance is a highly addictive
17 substance that has no accepted medical use in the United States
18 and a schedule II controlled substance is a highly addictive
19 substance that has an accepted medical use in the United
20 States. The reclassification of marijuana from a schedule I
21 controlled substance to a schedule II controlled substance
22 would allow a physician to issue a prescription for marijuana
23 under state law. However, federal regulations may prohibit
24 such prescriptions.

25 Except for the penalty for a first-offense possession of
26 five grams or less of marijuana, the penalties remain unchanged
27 for violations involving marijuana under the bill. The
28 penalties under Code section 124.401 range from a class "B"
29 felony punishable by up to 50 years of confinement to a serious
30 misdemeanor punishable by up to six months of confinement
31 depending on the amount of marijuana involved in the offense.

32 Under the bill, a person who possesses five grams or less
33 of marijuana commits a simple misdemeanor for a first offense.
34 A simple misdemeanor is punishable by confinement for no more
35 than 30 days or a fine of at least \$65 but not more than \$625

1 or by both.

2 Current law specifies that a person who commits first
3 offense possession of marijuana commits a serious misdemeanor
4 punishable by confinement for not more than six months or by
5 a fine of not more than \$1,000 or by both. The bill does not
6 modify the penalty for second offense possession of marijuana
7 which is punishable by confinement for no more than one year
8 and a fine of at least \$315 but not more than \$1,875. The bill
9 also does not modify the penalty for a third or subsequent
10 possession of marijuana offense which is punishable by
11 confinement for no more than two years and a fine of at least
12 \$625 but not more than \$6,250.